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AUTHOR Winter, Phoebe C.
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ABSTRACT

This paper includes a discussion of South Carolina's 1988 amendment to the law regulating home schooling instruction. A brief history of the law and the amendment is provided. Prior to the passage of the amendment, the State Board of Education approved home instruction programs. The amendment specifies: (1) procedures for application; (2) instructor qualifications; (3) minimum requirements for the instructional program; and (4) physical conditions of the place of instruction. Interpretation of the law regarding the home instruction issue appears to be a continuing problem. (SI)

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Regulation of Home Schooling Parents in South Carolina: The State's Perspective

Phoebe C. Winter
Teacher Assessment Unit
Office of Research
South Carolina Department of Education

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Regulation of Home Schooling Parents in South Carolina:
The State's Perspective

In 1988, the South Carolina General Assembly amended the law regulating home schooling instruction. The amendment provides specific criteria for approval of home instruction programs. Prior to passage of this amendment, instruction at a place other than school was required by law to be "approved by the State Board of Education as substantially equivalent to instruction given to children of like ages in the public or private schools where such children reside."[1] In 1976, the State Board of Education adopted a regulation delegating approval of home schooling instruction to the school board of the district in which the instruction was conducted. If the local board disapproved the instruction, its ruling could then be appealed to the State Board of Education.

To assist local districts in making decisions concerning the approval of home instruction, the State Board of Education in 1987 adopted guidelines for "instruction at a place other than school." These guidelines were not regulation, but were recommendations of procedures to follow and criteria to apply in determining whether the home instruction was substantially equivalent to public or

1 Section 59-65-40, Code of Laws of South Carolina, 1976

private school programs available to students in the district. Each local district could establish its own criteria for determining whether a home schooling instruction program provided "substantially equivalent" instruction. The district criteria established ranged from requiring the home instructor to hold a high school diploma to requiring the parent or guardian to be a certified teacher. At least one district disapproved all requests for home instruction. Parents wishing to teach their children at home could be eligible to do so in one district but be barred from providing home instruction in a neighboring district.

During the 1986-87 academic year, the number of disapprovals of home schooling programs by local districts and subsequent appeals to the State Board of Education increased dramatically, with eleven appeals that year as compared to one or two per year in previous years. This increase paralleled the increase in the reported number of home schooling programs in the state, up from 72 in 1985-1986 to 251 in 1987-1988. Because local districts had been given the responsibility of approving home schooling programs, the State Board of Education's standard for review was whether there was a clear abuse of discretion on the part of the district. Of a total of 25 appeals, there were only five (5) reversals.

To provide consistency in the approval of home schooling across the state, the State Board of Education submitted regulations governing approval of home instruction programs to the General Assembly in 1987. These regulations specified 1) procedures for application, 2) instructor qualifications, 3) minimum requirements for the instructional program, and 4) physical conditions of the place of instruction. The Senate Education Committee requested that the State Board of Education withdraw the regulations. Subsequently, both the House and the Senate drafted amendments to the "substantially equivalent" law then in effect. The State Board of Education also proposed an amendment to the law.

The bill proposed by the House[2] required that the parent or guardian hold at least a high school diploma or a GED certificate. The instructional program was to include at a minimum reading, language arts, mathematics, social studies, and science. The bill specified a school day of at least four and one-half hours and a school year of 180 days; monthly attendance records were to be submitted to the school district. Although students were required to participate in a nationally standardized testing program at least once every three years, the test results did not have to be submitted to public education authorities. The bill also required the home schooling instructor to write an

2 House Bill 2442

annual progress report for each student, but no provisions were made for submission of the report to the school district.

The proposed Senate amendment[3] to the home schooling law added several requirements to those contained in the House bill. Under the proposed amendment, home schooling instructors would be required to maintain records of subjects taught and activities engaged in, a portfolio containing samples of the student's work, and records of evaluations of academic progress. Students would participate in a nationally standardized testing program at least every two years rather than every three years. In addition, the Senate bill specified that the school district would register the home schooling program and that the State Board of Education could not promulgate regulations under this section.

The amendment proposed by the State Board of Education was more restrictive than those proposed by the House and the Senate. Provisions for instructional time and the instructional curriculum were similar to those contained in the House and Senate bills. The State Board of Education's proposed amendment additionally specified that the student have access to library facilities and that the place of instruction be appropriate. The major differences in the State Board of Education amendment were related to

3 Senate Bill 457

instructor qualifications and evaluations of student progress.

The home schooling instructor was required to 1) hold or be eligible for a South Carolina teacher's certificate or 2) hold at least a high school diploma or GED certificate and be assisted by a satisfactory instructional support system. The support system had to include either 1) regular assistance from a certified teacher at least four times a year; 2) regular assistance from a teacher agreed upon by both the school board and the parents at least four times a year; or 3) other provisions that satisfied the school board.

Under the amendment proposed by the State Board of Education, students taught at home would be required to participate in the annual statewide testing program. Test results, as well as progress reports in each of the required subject areas, were to be the basis of continuing approval of the home instruction program by the school district.

Except for instructor qualifications, the amendment passed by the General Assembly in 1988[4] is similar to that proposed by the State Board of Education. Districts must provide for an application process which includes descriptions of the program, the text and materials to be used, the methods of program evaluation, and the place of

4 Section 59-65-40, Code of Laws of South Carolina, 1976, as amended by Act 593 of 1988

instruction. Criteria for district approval of a home schooling program include the following.

1. The parent must a) hold a high school diploma or GED certificate and pass the Education Entrance Examination (EEE), a basic skills test in reading mathematics and writing, or b) hold a baccalaureate degree.
2. The instructional day must be at least four and one-half hours, and the instructional year must be at least 180 days.
3. The curriculum must include instruction in reading, mathematics, writing, science, and social studies and, in grades seven through twelve, literature and composition.
4. The parent must maintain records for inspection by the school district which include a record of subjects taught and activities engaged in, a portfolio of samples of the student's work, and a record of evaluations of the student's progress. A semiannual report of progress in each subject area and attendance must be submitted to the district.
5. The student must have access to library facilities.
6. The student must participate in the annual statewide testing program and the Basic Skills Assessment Program. Students eligible for enrollment in the

first grade must take the readiness test used by the state.

If the school district determines that any one of these criteria is not being met, the district must notify the parent to correct the deficiencies within 30 days and may withdraw approval if the deficiencies are not corrected within that time period. If a student's test score is below the state standard for promotion for public school students, the district may either place the student in a public school, require that the student receive special services as a handicapped student, or require the parent to obtain instructional support. The parent may place the student in a private school if desired. Parents denied permission to teach their children at home may appeal to the State Board of Education.

Perhaps the most controversial component of the legislation is the requirement that parents who do not hold baccalaureate degrees must pass the EEE. The EEE was developed in response to Act 187 of 1979 (the Educator Improvement Act) to ensure that prospective teachers have basic skills in reading, mathematics and writing. None of the proposed amendments to the home schooling legislation contained reference to any test of the home schooling instructor, and the addition of the EEE to the final bill came as a floor amendment. The intent of mandating passing the EEE was to require home schooling instructors without

baccalaureate degrees to possess qualifications that are a prerequisite for competent teaching. The major objection to the use of the EEE is that any deficiencies in instruction will be evident in the home schooling student's test scores. A study appraising the use of the EEE with home schooling instructors found, however, that the knowledge and skills covered by the examination are necessary prerequisites for successful home instruction.[5]

A recent Attorney General's opinion[6] clarified several questions based on the amendment. School districts may not require on-site visits to determine whether a home instruction program is consistent with the specified standards. Districts may request parents to provide evidence of the student's satisfactory completion of a prior grade before allowing parents to seek approval for home instruction in the subsequent grade. And only parents or guardians may be approved to provide regular instruction to a child in a home instruction setting.

Although the new home instruction law in South Carolina is specific and comprehensive, there are several questions regarding the interpretation of the law, and as the law is

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5 IOX Assessment Associates (December, 1988). Appraisal of the Education Entrance Examination for Use With Home-schooling Instructors. IOX: Los Angeles

6 Correspondence from J. Emory Smith, Jr., South Carolina Assistant Attorney General, to Charlie G. Williams, South Carolina Superintendent of Education, February 27, 1989

implemented over the years, additional questions will certainly arise. The conflict between the state's responsibility and parental rights will keep the home instruction issue alive for some time.